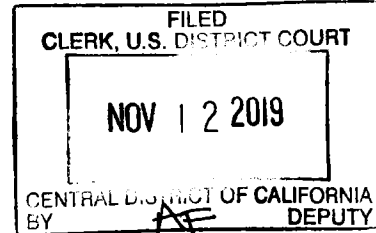


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8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
11

12 SHELTON LOCKETT; MICHELLE
13 DAVIS; and CLYDE DAVIS,

14 Plaintiffs,

15 v.

16 COUNTY OF LOS ANGELES, a
17 public entity; LOS ANGELES
18 COUNTY SHERIFF'S
19 DEPARTMENT, a law enforcement
20 agency; SHERIFF JIM MCDONNELL;
21 MIZRAIN ORREGO, a Deputy Los
22 Angeles County Sheriff; SAMUEL
23 ALDAMA, a Deputy Los Angeles
24 County Sheriff; and DOES 1 through
25 100, inclusive,

26 Defendants.

CASE NO. 2:18-cv-05838-PJW

[Assigned to Magistrate Judge Patrick J.
Walsh, Courtroom "790"]

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

*See change at
page 9.*

27 **1. A. PURPOSES AND LIMITATIONS**

28 Discovery in this action is likely to involve production of confidential,
proprietary, or private information for which special protection from public
disclosure and from use for any purpose other than prosecuting this litigation may
be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
enter the following Stipulated Protective Order. The parties acknowledge that this

Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

If any material disclosed or obtained in the course of the instant litigation is intended to be used for any purpose other than prosecuting this litigation, the party seeking public disclosure or dissemination of such materials must first seek approval from the Court.

B. GOOD CAUSE STATEMENT

This action is likely to involve confidential information pertaining to personnel records and other materials subject to privacy protections for which special protection from public disclosure and from use for any purpose other than prosecution of this action is warranted. Limiting disclosure of these documents to the context of this litigation as provided herein will, accordingly, further important law enforcement objections and interests, including the safety of personnel and the public, as well as individual privacy rights of plaintiff, the individual defendants, and third parties. Such confidential materials and information consist of, among other things, materials entitled to privileges and/or protections under the following: United States Constitution, First Amendment; the California Constitution, Article I, Section 1; California *Penal Code* §§ 832.5, 832.7 and 832.8; California *Evidence Code* §§ 1040 and 1043 et. seq; the Privacy Act of 1974, 5 U.S.C. § 552; Health Insurance Portability and Accountability Act of 1996 (HIPPA); the right to privacy; decisional law relating to such provisions; and information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from

1 disclosure under state or federal statutes, court rules, case decisions, or common
2 law. Defendants also contend that such confidential materials and information
3 consist of materials entitled to the Official Information Privilege.

4 Confidential information with respect to the Defendants may include, but is
5 not limited to: personnel files; internal investigative files and documents; email and
6 written correspondence records; and policies and procedures that are kept from the
7 public in the ordinary course of business, as well as other information that is not
8 generally available to the public and is subject to the Official Information Privilege
9 and other privileges. Confidential information with financial records; email and
10 written correspondence records; video footage and/or photographs of the incident;
11 and psychological and medical notes, evaluations, reports, and treatment plans.

12 Testimony taken at a deposition may be designated as Confidential by making
13 a statement to that effect on the record at the deposition. Arrangements shall be
14 made with the court reporter transcribing the deposition to separately bind such
15 portions of the transcript containing information designated as Confidential, and to
16 label such portions appropriately. Photographs, video or audio footage obtained
17 through the course of discovery or otherwise may not be used for any purpose other
18 than litigating this lawsuit. The parties agree to refrain from directly or indirectly
19 disclosing or publicly disseminating deposition testimony, and/or photographs,
20 video or audio footage obtained through the course of discovery or otherwise,
21 specifically including, but not limited to, dissemination via billboard advertisements,
22 print and online media organizations, or any other internet posting or social media.
23 If any party intends to use such materials for any purpose other than litigating this
24 lawsuit, the party seeking public disclosure must first seek approval from the Court.

25 The parties reserve the right to challenge a designation of confidentiality
26 pursuant to the terms set forth under Paragraph 8 of this Order.

27 Accordingly, to expedite the flow of information, to facilitate the prompt
28 resolution of disputes over confidentiality of discovery materials, to adequately

1 protect information the parties are entitled to keep confidential, to ensure that the
2 parties are permitted to reasonably use such material in preparation for and in
3 conduct of trial, to address their handling at the end of the litigation, and serve the
4 ends of justice, a protective order for such information is justified in this matter. It is
5 the intent of the parties that information will not be designated as confidential for
6 tactical reasons and that nothing be so designated without a good faith belief that it
7 has been maintained in a confidential, non-public manner, and there is good cause
8 why it should not be part of the public record of this case.

9 **2. DEFINITIONS**

10 2.1 Action: *Sheldon Lockett v. County of Los Angeles, et al.*, Case No.
11 2:18-CV-05838-PJW.

12 2.2 Challenging Party: a Party or Non-Party that challenges the
13 designation of information or items under this Order.

14 2.3 "CONFIDENTIAL" Information or Items: information (regardless of
15 how it is generated, stored or maintained) or tangible things that qualify for
16 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
17 the Good Cause Statement.

18 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
19 their support staff and investigators).

20 2.5 Designating Party: a Party or Non-Party that designates information or
21 items that it produces in disclosures or in responses to discovery and
22 "CONFIDENTIAL."

23 2.6 Disclosure or Discovery Material: all items or information, regardless
24 of the medium or manner in which it is generated, stored, or maintained (including,
25 among other things, testimony, transcripts, and tangible things), that are produced or
26 generated in disclosures or responses to discovery in this matter.

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1 2.7 Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as
3 an expert witness or as a consultant in this Action.

4 2.8 House Counsel: attorneys who are employees of a party to this Action.
5 House Counsel does not include Outside Counsel of Record or any other outside
6 counsel.

7 2.9 Non-Party: any natural person, partnership, corporation, association or
8 other legal entity not named as a Party to this action.

9 2.10 Outside Counsel of Record: attorneys who are not employees of a
10 party to this Action but are retained to represent or advise a party to this Action and
11 have appeared in this Action on behalf of that party or are affiliated with a law firm
12 that has appeared on behalf of that party, and includes support staff and
13 investigators.

14 2.11 Party: any party to this Action, including all of its officers, directors,
15 employees, consultants, retained experts, and Outside Counsel of Record (and their
16 support staff and investigators).

17 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
18 Discovery Material in this Action.

19 2.13 Professional Vendors: persons or entities that provide litigation support
20 services (e.g., photocopying, videotaping, translating, preparing exhibits or
21 demonstrations, and organizing, storing, or retrieving data in any form or medium)
22 and their employees and subcontractors.

23 2.14 Protected Material: any Disclosure or Discovery Material that is
24 designated as "CONFIDENTIAL."

25 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
26 from a Producing Party.

27 ///

28 ///

1 **3. SCOPE**

2 The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or
4 extracted from Protected Material; (2) all copies, excerpts, summaries, or
5 compilations of Protected Material; and (3) any testimony, conversations, or
6 presentations by Parties or their Counsel that might reveal Protected Material. Any
7 use of Protected Material at trial shall be governed by the orders of the trial judge.
8 This Order does not govern the use of Protected Material at trial.

9 **4. DURATION**

10 Even after final disposition of this litigation, the confidentiality obligations
11 imposed by this Order shall remain in effect until a Designating Party agrees
12 otherwise in writing or a court order otherwise directs. Final disposition shall be
13 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
14 or without prejudice; and (2) final judgment herein after the completion and
15 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
16 including the time limits for filing any motions or applications for extension of time
17 pursuant to applicable law.

18 **5. DESIGNATING PROTECTED MATERIAL**

19 **5.1 Exercise of Restraint and Care in Designating Material for Protection.**

20 Each Party or Non-Party that designates information or items for protection
21 under this Order must take care to limit any such designation to specific material
22 that qualifies under the appropriate standards. The Designating Party must designate
23 for protection only those parts of material, documents, items or oral or written
24 communications that qualify so that other portions of the material, documents, items
25 or communications for which protection is not warranted are not swept unjustifiably
26 within the ambit of this Order.

27 Mass, indiscriminate or routinized designations are prohibited. Designations
28 that are shown to be clearly unjustified or that have been made for an improper

1 purpose (e.g., to unnecessarily encumber the case development process or to impose
2 unnecessary expenses and burdens on other parties) may expose the Designating
3 Party to sanctions.

4 If it comes to a Designating Party's attention that information or items that it
5 designated for protection do not qualify for protection, that Designating Party must
6 promptly notify all other Parties that it is withdrawing the inapplicable designation.

7 5.2 Manner and Timing of Designations.

8 Except as otherwise provided in this Order (see, e.g., second paragraph of
9 Section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery
10 Material that qualifies for protection under this Order must be clearly so designated
11 before the material is disclosed or produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic
14 documents, but excluding transcripts of depositions or other pretrial or trial
15 proceedings), that the Producing Party affix at a minimum, the legend
16 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
17 contains protected material. If only a portion of the material on a page qualifies for
18 protection, the Producing Party also must clearly identify the protected portion(s)
19 (e.g., by making appropriate markings in the margins).

20 A Party or Non-Party that makes original documents available for inspection
21 need not designate them for protection until after the inspecting Party has indicated
22 which documents it would like copied and produced. During the inspection and
23 before the designation, all of the material made available for inspection shall be
24 deemed "CONFIDENTIAL." After the inspecting Party has identified the
25 documents it wants copied and produced, the Producing Party must determine which
26 documents, or portions thereof, qualify for protection under this Order. Then, before
27 producing the specified documents, the Producing Party must affix the
28 "CONFIDENTIAL legend" to each page that contains Protected Material. If only a

1 portion of the material on a page qualifies for protection, the Producing Party also
2 must clearly identify the protected portion(s) (e.g., by making appropriate markings
3 in the margins).

4 (b) for testimony given in depositions that the Designating Party identifies
5 the Disclosure or Discovery Material on the record, before the close of the
6 deposition all protected testimony. Photographs, video or audio footage taken at a
7 deposition may not be used for any purpose other than litigating this lawsuit. The
8 parties agree to refrain from directly or indirectly disclosing or publicly
9 disseminating deposition testimony, and/or photographs, video or audio footage
10 obtained through the course of discovery or otherwise, specifically including, but
11 not limited to, dissemination via billboard advertisements, print and online media
12 organizations, or any other internet posting or social media. If any party intends to
13 use such materials for any purpose other than litigating this lawsuit, the party
14 seeking public disclosure must first seek approval from the Court.

15 (c) for information produced in some form other than documentary and for
16 any other tangible items, that the Producing Party affix in a prominent place on the
17 exterior of the container or containers in which the information is stored the legend
18 "CONFIDENTIAL." If only a portion or portions of the information warrants
19 protection, the Producing Party, to the extent practicable, shall identify the protected
20 portion(s).

21 5.3 Inadvertent Failures to Designate.

22 If timely corrected, an inadvertent failure to designate qualified information
23 or items does not, standing alone, waive the Designating Party's right to secure
24 protection under this Order for such material. Upon timely correction of a
25 designation, the Receiving Party must make reasonable efforts to assure that the
26 material is treated in accordance with the provisions of this Order.

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1 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 6.1 Timing of Challenges.

3 Any Party or Non-Party may challenge a designation of confidentiality at any
4 time that is consistent with the Court's Scheduling Order.

5 6.2 Meet and Confer.

6 The Challenging Party shall initiate the dispute resolution process under
7 Local Rule 37-1 et seq.

8 6.3 Joint Stipulation.

9 Any challenge submitted to the Court shall be via a joint stipulation pursuant
10 to Local Rule 37-2.

11 6.4 The burden of persuasion in any such challenge proceeding shall be on
12 the Designating Party. Frivolous challenges, and those made for an improper
13 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
14 parties) may expose the Challenging Party to sanctions. Unless the Designating
15 Party has waived or withdrawn the confidentiality designation, all parties shall
16 continue to afford the material in question the level of protection to which it is
17 entitled under the Producing Party's designation until the Court rules on the
18 challenge.

19 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

20 7.1 Basic Principles.

21 A Receiving Party may use Protected Material that is disclosed or produced
22 by another Party or by a Non-Party in connection with this Action only for
23 prosecuting, defending or attempting to settle this Action. Such Protected Material
24 may be disclosed only to the categories of persons and under the conditions
25 described in this Order. When the Action has been terminated, a Receiving Party
26 must comply with the provisions of Section 13 below (FINAL DISPOSITION).

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1 Protected Material must be stored and maintained by a Receiving Party at a
2 location and in a secure manner that ensures that access is limited to the persons
3 authorized under this Order.

4 7.2 Disclosure of "CONFIDENTIAL" Information or Items.

5 Unless otherwise ordered by the court or permitted in writing by the
6 Designating Party, a Receiving Party may disclose any information or item
7 designated "CONFIDENTIAL" only to:

8 (a) the Receiving Party's Outside Counsel of Record in this Action, as well
9 as employees of said Outside Counsel of Record to whom it is reasonably necessary
10 to disclose the information for this Action;

11 (b) the officers, directors, investigators, and employees (including House
12 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this
13 Action;

14 (c) Experts (as defined in this Order) of the Receiving Party to whom
15 disclosure is reasonably necessary for this Action and who have signed the
16 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

17 (d) the court and its personnel;

18 (e) court reporters and their staff;

19 (f) professional jury or trial consultants, mock jurors, and Professional
20 Vendors to whom disclosure is reasonably necessary for this Action and who have
21 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

22 (g) the author or recipient of a document containing the information or a
23 custodian or other person who otherwise possessed or knew the information;

24 (h) during their depositions, witnesses, and attorneys for witnesses, in the
25 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
26 requests that the witness sign the form attached as Exhibit A hereto; and (2) they
27 will not be permitted to keep any confidential information unless they sign the
28 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise

1 agreed by the Designating Party or ordered by the court. Pages of transcribed
2 deposition testimony or exhibits to depositions that reveal Protected Material may
3 be separately bound by the court reporter and may not be disclosed to anyone except
4 as permitted under this Stipulated Protective Order; and

5 (i) any mediator or settlement officer, and their supporting personnel,
6 mutually agreed upon by any of the parties engaged in settlement discussions.

7 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
8 **PRODUCED IN OTHER LITIGATION**

9 If a Party is served with a subpoena or a court order issued in other litigation
10 that compels disclosure of any information or items designated in this Action as
11 "CONFIDENTIAL" that Party must:

12 (a) promptly notify in writing the Designating Party. Such notification shall
13 include a copy of the subpoena or court order;

14 (b) promptly notify in writing the party who caused the subpoena or order to
15 issue in the other litigation that some or all of the material covered by the subpoena
16 or order is subject to this Protective Order. Such notification shall include a copy of
17 this Stipulated Protective Order; and

18 (c) cooperate with respect to all reasonable procedures sought to be pursued
19 by the Designating Party whose Protected Material may be affected.

20 If the Designating Party timely seeks a protective order, the Party served with
21 the subpoena or court order shall not produce any information designated in this
22 action as "CONFIDENTIAL" before a determination by the court from which the
23 subpoena or order issued, unless the Party has obtained the Designating Party's
24 permission. The Designating Party shall bear the burden and expense of seeking
25 protection in that court of its confidential material and nothing in these provisions
26 should be construed as authorizing or encouraging a Receiving Party in this Action
27 to disobey a lawful directive from another court.

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9. **A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
PRODUCED IN THIS LITIGATION**

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as "CONFIDENTIAL." Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

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1 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

2 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
3 Protected Material to any person or in any circumstance not authorized under this
4 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
5 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
6 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
7 persons to whom unauthorized disclosures were made of all the terms of this Order,
8 and (d) request such person or persons to execute the "Acknowledgment and
9 Agreement to Be Bound" that is attached hereto as Exhibit A.

10 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
11 **PROTECTED MATERIAL**

12 When a Producing Party gives notice to Receiving Parties that certain
13 inadvertently produced material is subject to a claim of privilege or other protection,
14 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
15 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
16 may be established in an e-discovery order that provides for production without
17 prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar
18 as the parties reach an agreement on the effect of disclosure of a communication or
19 information covered by the attorney-client privilege or work product protection, the
20 parties may incorporate their agreement in the stipulated protective order submitted
21 to the court.

22 **12. MISCELLANEOUS**

23 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
24 person to seek its modification by the Court in the future.

25 12.2 Right to Assert Other Objections. By stipulating to the entry of this
26 Protective Order, no Party waives any right it otherwise would have to object to
27 disclosing or producing any information or item on any ground not addressed in this
28 Stipulated Protective Order. Similarly, no Party waives any right to object on any

ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Local Civil Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

13. FINAL DISPOSITION

After the final disposition of this Action, as defined in Section 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

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1 **14. VIOLATION**

2 Any violation of this Order may be punished by appropriate measures including,
3 without limitation, contempt proceedings and/or monetary sanctions.

4
5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

6
7 DATED: 11/8/2019

8
9 /s/ John E. Sweeney
10 John E. Sweeney
11 Steven C. Glickman
Attorneys for Plaintiff Sheldon Lockett

12 DATED: 11/8/2019

13
14 /s/ Rickey Ivie
15 Rickey Ivie
16 Jack Altura
Attorneys for Defendant County of Los Angeles

17 DATED: 11/8/2019

18
19 /s/ Thomas C. Hurrell
20 Thomas C. Hurrell
21 Natalie U. Luongo
Faryar Barzin
Attorneys for Defendant Mizrain Orrego

22 DATED: 11/8/2019

23
24 /s/ Gilbert Nishimura
25 Gilbert Nishimura
26 Andrew Pongracz
Attorneys for Defendant Samuel Aldama

27

28

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FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: 11/12/19

Patrick J. Walsh
HON. PATRICK J. WALSH
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on [_____] in the case of *Sheldon Lockett v. County of Los Angeles, et*
al., Case No. 2:18-CV-05838-PJW. I agree to comply with and to be bound by all
the terms of this Stipulated Protective Order and I understand and acknowledge that
failure to so comply could expose me to sanctions and punishment in the nature of
contempt. I solemnly promise that I will not disclose in any manner any information
or item that is subject to this Stipulated Protective Order to any person or entity
except in strict compliance with the provisions of this Order. I further agree to
submit to the jurisdiction of the United States District Court for the Central District
of California for enforcing the terms of this Stipulated Protective Order, even if such
enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and
telephone number] as my California agent for service of process in connection with
this action or any proceedings related to enforcement of this Stipulated Protective
Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____